

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7577

BILL NUMBER: HB 1491

NOTE PREPARED: May 1, 2009

BILL AMENDED: Apr 29, 2009

SUBJECT: Courts and Court Officers.

FIRST AUTHOR: Rep. Fry

FIRST SPONSOR: Sen.Charbonneau

BILL STATUS: Enrolled

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: *Sixth District of the Court of Appeals-* The bill establishes the Sixth District of the Court of Appeals of Indiana as of July 1, 2011. The bill provides that the entire state constitutes the Sixth District.

Election of St. Joseph County Superior Judges- The bill requires the nonpartisan election of superior court judges in St. Joseph County. The bill continues the terms of the St. Joseph superior court judges in office on June 30, 2009, until the date the judges' terms will end under the law in effect on June 30, 2009.

Campaign Contributions - The bill provides that a candidate for judge of the St. Joseph Superior Court may not accept certain political contributions.

Repealer- The bill repeals provisions concerning judicial retention elections in St. Joseph County.

Interlocal Agreement- The bill allows a city or town that has not established a city or town court or an ordinance violations bureau to enter into an interlocal agreement with a city, town, or other municipal corporation that has established: (1) a city or town court; or (2) an ordinance violations bureau; to hear and dispose of ordinance violations that would otherwise come under the jurisdiction of a city or town court or an ordinance violations bureau established by the city or town.

Effective Date: July 1, 2009; July 1, 2011.

Explanation of State Expenditures: *Election of St. Joseph County Superior Judges-* The Election Division (ED) would have to determine candidate eligibility from declaration of candidacy documents filed by those

seeking a judgeship through election. The ED would be able to process the additional documents within their existing level of resources.

Sixth District Court of Appeals- This new three-judge panel would begin operating on July 1, 2011.

Before the Sixth District begins operation, the Judicial Nominating Commission would be required to nominate three candidates for each of the judgeships prior to May 1, 2011. Since one meeting would likely be needed to identify a candidate for each judgeship, at least three meetings are assumed to be conducted in FY 2010.

The Department of Administration also would be required to arrange for facilities for the Court of Appeals.

The total new staff would include:

- three judges.
- three secretaries.
- three chief judicial law clerks.
- six judicial law clerks.

The salaries of trial court judges and court of appeals judges are adjusted annually by state law. (See *Background* below concerning salary adjustments and medical benefits.)

Additional administrative staff would be needed to support the expanded courts of appeals. These support staff would include:

- a staff attorney.
- administrative assistant for staff attorney.
- computer technician.
- a personnel and financial officer.

Cost estimates include one-time costs for furniture and automation and ongoing costs for salaries, benefits, and rent.

The following cost estimates are made for the 6th District.

Estimated Costs of Sixth District Court of Appeals			
	FY 2011	FY 2012	FY 2013
Salaries (assumes salary of \$147,103 in FY 2009 will not increase until 2011, increase of 2.5% annually thereafter)		\$150,781	\$154,550
Annual Subsistence Allowance		\$3,000	\$3,000
Fringe Benefits (10.29% of Salaries)		\$15,515	\$15,903
Judges Retirement Fund Contribution		\$20,246	\$20,651
Travel & Education Expenses per Judge (\$10,000 per year)		\$10,000	\$10,000
Health, Vision, and Dental Insurance (\$9,793 Blended Rate)		\$9,793	\$9,793
Cost for each Judge x 3		\$628,005	\$640,477
Staff (1 Senior Judicial Law Clerk, 2 Clerks, 1 Secretary)		\$235,171	\$239,874
Fringe Benefits (19.54% of Salary)		\$45,952	\$46,871
Health, Vision, & Dental Insurance (\$9,520 Blended Rate)		\$38,080	\$38,080
Cost for Core Support Staff for Judges x 3		\$957,610	\$974,478
Staff (1 Staff Attorney, 1 Admin Assistant, 1 Computer Tech, 1 Personnel/Financial Officer)		\$212,064	\$216,305
Fringe Benefits (19.54% of Salary)		\$41,437	\$42,266
Health, Vision, Dental Insurance (\$9,793 Blended Rate)		\$76,160	\$76,160
Additional Administrative Staff (for entire Court of Appeals)		\$329,661	\$334,731
Commission on Judicial Qualifications (4 Meetings in FY 2010 at \$1,250 per Meeting)	\$3,750		
Start-up for Automation (Hardware & Software for all new staff)		\$37,830	
Furniture (\$75,000 x 3 Judges + \$6,000 x 1 attorney)		\$231,000	
Rent (2000 Sq. Ft. @ \$19/sq. ft) x 3 Judges + (150 Sq. Ft. @ \$19/sq. ft) x 1 staff attorney		\$256,500	\$256,500
Total Cost	<u>\$3,750</u>	<u>\$2,440,606</u>	<u>\$2,206,186</u>

Background Information - Under IC 33-38-5-8.1, salaries of judicial officers are adjusted each year by the amount that executive staff in the same salary bracket are paid. For this analysis, the salaries of the court of appeals judges are assumed to remain at the FY 2009 salary level until FY 2011 when the salary increase will be 2.5%.

Explanation of State Revenues: Campaign Contributions- Violation of this provision could result in criminal charges against candidates. Under current election law penalty provisions, there are various misdemeanors or felonies that could apply.

Penalty Provision: If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. However, any additional revenue would likely be small.

Interlocal Agreements for Ordinance Violations Enforcement – This provision has an uncertain effect on state General Fund revenue. The number of ordinance violations cases that are not being enforced is not known and, consequently, it isn't known whether actions enforcing more ordinance violations would be filed in city or town courts or whether existing cases would shift from trial courts in the same county.

For each new case enforced in city and town courts, the state General Fund would receive \$38.50 in new court fee revenue as long as they are not being shifted from trial courts in the same county. For each case shifted from trial courts to city and town courts, the state General Fund would lose \$10.50 in court fees. (See table on following page.)

For each ordinance violation case shifted from a trial court to a city or town court, the state General Fund would lose \$10.50. The following shows the share of court fees that the state receives for each ordinance violations case.

State General Fund Revenue Loss for Each Case Shifted From Trial Court to City or Town Court				
	Fee	Trial Courts (70%)	City and Town Courts (55%)	Revenue Loss
Infractions and Ordinance Violations	\$70	\$49	\$38.50	(\$10.50)

The following show the number of local ordinance violations disposed in trial courts and city and town courts between 2003 and 2007.

Local Ordinance Violations Disposed in:					
	2003	2004	2005	2006	2007
Trial Courts	72,616	54,054	51,111	63,950	60,481
City and Town Courts	29,228	32,899	31,852	35,397	32,183

City and town courts have limited jurisdiction in court matters. Infractions, ordinance violations, and misdemeanors are permitted to be filed in both types of courts. Town courts have no jurisdiction on civil matters. The civil jurisdiction of city courts is extremely limited. City courts have civil jurisdiction over cases where the amount being contested is less than \$500, but not over cases involving slander, libel, real estate, and probate-related matters. The civil jurisdiction of city courts in Lake County have a limit of \$3,000.

Explanation of Local Expenditures: *Election of St. Joseph County Superior Judges*- This provision would have minimal impact on local expenditures. Judges in St. Joseph County are currently placed on the general election ballot every six years for a vote of retention. Given that the bill would require the judges to be directly elected by a general election ballot every six years, the general election ballot may need to be reorganized to accommodate their direct election instead of retention.

Explanation of Local Revenues: *Campaign Contributions- Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

Interlocal Agreement- If ordinance violations cases are shifted from trial courts to city and town courts, local units of government would gain \$10.50 per case. If new cases are enforced in city and town courts, local units would gain \$31.50 for each case added.

Local Revenue Gain For Each Case Shifted From Trial Court to City or Town Court				
	Fee	Trial Courts (30%)	City and Town Courts (45%)	Revenue Gain
Infractions and Ordinance Violations	\$70.00	\$21.00	\$31.50	\$10.50

State Agencies Affected: Election Division; Court of Appeals.

Local Agencies Affected: St. Joseph County, trial courts, local law enforcement agencies, city and town courts.

Information Sources: Steve Lancaster, Administrator of the Indiana Court of Appeals; *2007 Indiana Judicial Report*.

Fiscal Analyst: Chris Baker, 317-232-9851; Mark Goodpaster 317.232.9852.